

UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

In re Application of: Martin Oberhomburg
Application Number: 10/573,433
Filing Date: 03/24/2006
Group Art Unit: 3742
Examiner: Mark H. Paschall
Title: COOKING AREA, PARTICULARLY A GAS COOKING AREA

Mail Stop Appeal Brief - Patents

Commissioner for Patents
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REPLY BRIEF

Appellant hereby files a Reply Brief to the Examiner's Answer mailed February 7, 2011 for the above-identified application.

The Examiner's Answer dated February 7, 2011, includes a Response to Arguments section in which the Examiner provides new argumentation requiring the following response.

On page 6, line 16 of the Response to Arguments section, the Examiner indicates that page "4" of the Brief advances a certain argument. However, page "4" of the Brief simply includes an annotated version of various ones of the claims which are independently argued.

In the context of the Examiner's response, the Examiner again erroneously states that "Appellants have failed to disclose just what the different symbol is or just what a different type of symbolism means." As examples only, claim 13 which is separately argued indicates that the first set of symbols includes the numbers 0-9 and the second set of symbols does not include numbers. In addition, claim 14 specifies that the second set of symbols includes one or more of the three horizontal display elements on a seven-segment display (claim 14). By contrast, the

Examiner's position is simply that the numbers 4 and 7, for example, represent different symbols thus satisfying the claim language. Of course, the use of different numbers does not satisfy the subject matter of claim 11. The arrangement of claim 11 eliminates any confusion as to whether the heating element is operating in the first mode or the second mode (see page 2, lines 23-27 of the original specification). The second mode is sometimes falsely interpreted by the user as a fault in the operation in the heating element. Thus, using symbols of different types of symbolism avoids this confusion, by visually distinguishing the two types of heating modes. The use of a "4" and a "7" in Sauter et al., would not avoid the type of confusion which is one of the objects of the claimed invention set forth in claim 11.

In addition, the Examiner goes on to point out many examples in Barnes et al. and Ohouchi which use different types of symbolism. However, all of the examples the Examiner has provided relate to providing different types of displays for different types of parameters, e.g., the parameters relating to time, temperature, humidity and other control parameters. Claim 11 is different in an important way in that it is the heating output in the first operating mode and the second operating mode which is displayed with respect to first and second sets of symbols of different types of symbolism. The Examiner has failed to show any applied prior art that teaches the use of two different types of symbols for displaying the same parameter, i.e., heating output per claim 11.

In regard to the Examiner's response provided on page 8, lines 3-18, the Examiner copies word for word the language from pages 5 and 6 of the rejection portion of the Examiner's Answer; this copied text not amounting to a response to Appellant's arguments. This is especially disturbing since the twice copied language the Examiner cites is used to support the rejection of claims 12-14, 17-20, 22 and 24 (page 5-6 of the Examiner's Answer), as well as to

“respond” to Appellant’s arguments regarding claims 11, 15 and 16 as set forth on page 8, line 3 of the Examiner’s Answer.

In addition, the Examiner’s Answer states on page 8, last two lines, that “Appellant’s remarks advance on pages 6-7 that Barnes et al and Ohuchi do not teach multiple displays with multiple operating modes.” However, all of the arguments provided on page 6 of the Appellant’s Appeal Brief relate to the rejection of claims 11, 15 and 16 under 35 U.S.C. §102(e) over Sauter et al. There are no remarks provided in relation to Barnes et al. or Ohouchi. In regard to the arguments provided on page 7 of the Appeal Brief, Appellant is unable to find any argument that was provided which states that Barnes et al. and Ohouchi do not teach multiple displays with multiple operating modes as alleged in the Examiner’s Answer, page 8, last two lines.

The Examiner goes on at page 8 last line to page 9, line 4 to specify that Barnes et al. and Ohouchi teach various types of displays using different symbolisms. Again, the Examiner has not provided any teachings in Ohouchi or Barnes et al. which show the use of two different types of symbols for displaying the same parameter, i.e., heating output per claim 11.

In regard to the Examiner’s remarks provided at page 9, lines 7-20 in relation to claims 12-14 and 17-20, the Examiner’s comments are largely not understood, since it appears to be a compilation of incomplete sentences that do not relate to one another. Further, for the most part the Examiner’s responses have no relation whatsoever to claims 12-14 and 17-20. In any event, the Examiner states that Stockley clearly teaches the use of a seven-segment display as conventional and is obvious to the artisan. However, claim 12 again sets forth that the indicating device consists of a seven-segment display. Claim 12 also sets forth that it is the seven-segment display that indicates the heat output in the first and second modes. Stockley does not teach or suggest this subject matter and frankly it is unclear why the Examiner relied on Stockley for this teaching since Sauter et al. clearly shows that it is using a seven-segment display although it

does not disclose an indicating device that consists of a seven-segment display for indicating the heat output in first and second modes.

On page 10, lines 8-9 of the Examiner's Answer, the Examiner states that "Appellant's remarks on page 5 set forth that claim 14 defines transverse segments, not taught". Again, page 5 of the Appeal Brief includes no arguments whatsoever, but rather simply includes an annotated copy of claims 22-24 and then sets forth the Grounds for Rejection (part (6)). In addition, claim 14 depends from claim 12 which specifies that the indicating device consists of a seven-segment display. Claim 14 further specifies that the second set of symbols comprise one or more of the three transverse segments of the seven-segment display. The Examiner somehow likens the seven-segment display to a bar graph as apparently shown in Ohouchi. Of course, the Examiner's reasoning is flawed and illogical. In addition, the Examiner goes on on page 10, lines 12-20 of the Examiner's Answer to specify various possibilities of how the applied prior art operates, but none of the Examiner's remarks provide any response to the specific arguments presented in relation to claims 12, 22, 13 and 23, 14 and 24 from the Appeal Brief (see pages 8-10).

For the reasons explained in the Appeal Brief and the instant Reply Brief, the Board should reverse the final rejection.

Respectfully submitted,

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